

REMARKS

The final Office Action dated May 15, 2008 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-36 and 38-44 are now pending in this application. Claims 1-36 and 38-44 stand rejected.

In the Response to Arguments section at page 17 of the Office Action, the Examiner asserts Curtis discloses a system comprising a web server, file transfer server, and a database comprising at least one web page file. The Examiner further asserts disclosure by, "a web server used to access a webpage, would inherently need to be stored in a database." To establish inherency, the prior art "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." M.P.E.P. § 2112 citing *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). It is certainly not necessary for a webpage to be stored on a database. Indeed, it is at least equally possible that a webpage could be stored in a cache, a file structure, or another data gathering system completely different from a database.

The rejection of Claims 1-12 and 28-32 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,668,279 to Curtis (hereinafter referred to as "Curtis") in view of U.S. Patent 7,130,701 to Wischinski (hereinafter referred to as "Wischinski") is respectfully traversed.

Curtis describes a system including an in-kernel data transport module (206). The system further includes multiple clients (100, 102) that may send HTTP requests to a web server (202). Within web server (202), an in-kernel cache (204) is managed by data transport module (206) having an associated protocol stack (208). Data transport module (206) routes HTTP requests or portions thereof to an HTTP daemon (210) via an upcall door (212). The system can be implemented on a computer system (1502) that has any number of processors

(1504) coupled to primary storage devices (1506), a secondary storage device (1510), input/output devices (1512), and/or a telecommunications network (1514). Notably, Curtis does not describe or suggest a web and file transfer system that includes a web server, a file transfer server, and a database having at least one web page file.

Wischinski describes a technical support system (TSS) (11) that interrogates an industrial control system (ICS) and provides suggestions for upgrading components used by the ICS. The TSS (11) interrogates, either autonomously or at the direction of a technical support provider (17), control or automation devices (22 and 26) of the ICS. The TSS (11) and the control automation devices (22 and 26) communicate via the Internet using a separate server or a web server (21) embedded within the TSS (11). A third party web portal (15) allows access by the TSS (11) to a sales database (16), which stores sales information about the configuration of the ICS, and which is located remote to the TSS (11).

Claim 1 recites a web-enabled automation control module (ACM) that includes “an ACM central processing unit (CPU); and a web and file transfer system electrically connected to said ACM CPU, said system embedded within said ACM and configured to process hypertext transfer protocol (HTTP) requests from a network, said system comprising a web server, a file transfer server, and a database comprising at least one web page file; wherein said ACM is one of a programmable logic controller (PLC), a computer numeric control (CNC), and a motion control product.”

Neither Curtis nor Wischinski, considered alone or in combination, describes or suggests a web-enabled ACM as recited in Claim 1. More specifically, neither Curtis nor Wischinski, considered alone or in combination, describes or suggests a web and file transfer system that includes a web server, a file transfer server, and a database having at least one web page file. Rather, Curtis describes a system including a web server that includes an in-kernel cache controlled by an in-kernel data transport module which routes HTTP requests or portions thereof to an HTTP daemon, and Wischinski describes a technical support system that provides technical support for an industrial control system over a network.

Applicants respectfully traverse the Examiner's assertion at page 3 of the Office Action that Curtis describes a web and file transfer system "comprising a web server and a file transfer server (col. 2, lines 54-65, Curtis discloses a request and response HTTP data transport; col. 4, lines 39-48, Curtis discloses a web server receiving and processing HTTP requests; col. 10, lines 59-65, Curtis discloses the CPU being connected to input/output devices)." Applicants submit that Curtis does not describe or suggest a file transfer system as recited in the pending claims. In contrast, at column 10, lines 59-65, Curtis describes coupling a CPU to input/output devices such as video monitors, track balls, mice, keyboards, microphones, touch-sensitive displays, transducer card readers, magnetic or paper tape readers, tablets, styluses, voice or handwriting recognizers, or other input devices. Applicants submit that connecting such devices to a CPU does not describe either a web server or a file transfer server.

Further, nowhere does Curtis describe or suggest a database as recited in Claim 1. In contrast, at column 1, lines 21-36, Curtis describes how a user uses a web browser and a web server to access a web page on the Internet. Moreover, the Office has failed to establish a *prima facie* case with respect to Claim 1 in that the Office fails to identify any teaching or suggestion in Curtis that it believes corresponds to the claimed database. For these additional reasons, Claim 1 is submitted to be patentable over Curtis in view of Wischinski.

Claims 2-12 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-12 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-12 likewise are patentable over Curtis in view of Wischinski.

Claim 28 recites a method for management and control of an automation control module (ACM) including an ACM central processing unit (CPU), wherein the ACM is one of a programmable logic controller (PLC), a computer numeric control (CNC), and a motion control product. The method includes "embedding a web and file transfer system within the ACM including electrically connecting the web and file transfer system to the ACM CPU, the web and file transfer system includes a web server, a file transfer server, and a database configured to store at least one web page file; electrically connecting the web and file transfer

system to a network; and processing hypertext transfer protocol (HTTP) requests from the network using the web and file transfer system.”

Neither Curtis nor Wischinski, considered alone or in combination, describes or suggests a method for management and control of an ACM as recited in Claim 28. More specifically, neither Curtis nor Wischinski, considered alone or in combination, describes or suggests embedding a web and file transfer system within the ACM, wherein the web and file transfer system includes a web server, a file transfer server, and a database configured to store at least one web page file. Rather, Curtis describes a system including a web server that includes an in-kernel cache controlled by an in-kernel data transport module which routes HTTP requests or portions thereof to an HTTP daemon, and Wischinski describes a technical support system that provides technical support for an industrial control system over a network.

Applicants respectfully traverse the Examiner’s assertion at page 6 of the Office Action that Curtis describes embedding a web and file transfer system within an ACM, wherein the web and file transfer system “includes a web server and a file transfer server (col. 2, lines 54-65, col. 4, lines 39-48, col. 6, lines 1-10, col. 10, lines 59-65)....” Applicants submit that Curtis does not describe or suggest a file transfer system as recited in the pending claims. In contrast, at column 10, lines 59-65, Curtis describes coupling a CPU to input/output devices such as video monitors, track balls, mice, keyboards, microphones, touch-sensitive displays, transducer card readers, magnetic or paper tape readers, tablets, styluses, voice or handwriting recognizers, or other input devices. Applicants submit that connecting such devices to a CPU does not describe either a web server or a file transfer server. Moreover, the Office has failed to establish a *prima facie* case with respect to Claim 28 in that the Office fails to identify any teaching or suggestion in Curtis that it believes corresponds to the claimed database. For these additional reasons, Claim 28 is submitted to be further patentable over Curtis in view of Wischinski.

Accordingly, for at least the reasons set forth above, Claim 28 is submitted to be patentable over Curtis in view of Wischinski.

Claims 29-32 depend, directly or indirectly, from independent Claim 28. When the recitations of Claims 29-32 are considered in combination with the recitations of Claim 28, Applicants submit that dependent Claims 29-32 likewise are patentable over Curtis in view of Wischinski.

Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. KSR Int'l Co. v. Teleflex, Inc., 127 S.Ct. 1727, 1740-1741 (2007) (quoting In re Kahn, 441 F.3d 977, 988 (Fed Cir. 2006)). In this case, the rejection includes no reasoning or rational underpinning to support the legal conclusion. The rejection is therefore in error. Applicants respectfully submit that Claims 1-12 and 28-32 are patentable over the cited prior art.

Further, it is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. It appears that the present rejection reflects an impermissible attempt to use the instant claims as a guide or roadmap in formulating the rejection using impermissible hindsight reconstruction of the invention. The United States Supreme Court has recently expressed concern regarding distortion caused by hindsight bias in an obviousness analysis, and notes that factfinders should be cautious of arguments reliant upon ex post reasoning. See KSR Int 'l Co. v. Teleflex, Inc., slip Opinion at page 17. The Supreme Court also explained that, following “common sense,” “familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.” Id. at page 16. Applicants respectfully submit that the teachings of Curtis and Wischinski do not fit together like pieces of a puzzle, but rather are two isolated disclosures that have been chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-12 and 28-32 be withdrawn.

The rejection of Claims 13-27 and 33-44 under 35 U.S.C. § 103(a) as being unpatentable over Curtis in view of U.S. Patent 6,826,594 to Pettersen (hereinafter referred to as “Pettersen”) and further in view of Wischinski is respectfully traversed.

Curtis and Wischinski are described above. Pettersen describes a method for inserting dynamic content into a web page. A web page owner defines one or more zones of a web page (793) as remotely managed, and then connects the web page (793) to a content serving web site (780) in order to manage the zones by identifying dynamic content to be inserted in the zones. By way of an affiliate browser (792), a user at an affiliated web site (790) accesses a zone content database (785) to alter a file (787) associated with a tag ID (786) owned by the affiliate. The affiliated web site (790) and the content serving web site (780) each have a web server (791 and 781). In response to a request from a user system browser (762), the content serving web site (780) looks up the file (787) associated with the dynamic content from the dynamic content database (785), using the tag ID (786) as a key, and sends the file (787) to a user system (760).

Claim 13 recites an automation control module (ACM) system that includes “an ACM comprising one of a programmable logic controller (PLC), a computer numeric control (CNC), and a motion control product; a network; a web-enabled computer electrically connected to said network; and a web and file transfer subsystem electrically connected to said ACM and said network, said web and file transfer subsystem comprising a web server, a file transfer server, and a database, said subsystem configured to store at least one user-defined web page file in said database.”

None of Curtis, Pettersen, and Wischinski, considered alone or in combination, describes or suggests an ACM system as recited in Claim 13. More specifically, none of Curtis, Pettersen, and Wischinski, considered alone or in combination, describes or suggests a web and file transfer subsystem that includes a web server, a file transfer server, and a database, wherein the subsystem is configured to store at least one user-defined web page file

in the database. Rather, Curtis describes a system including a web server that includes an in-kernel cache controlled by an in-kernel data transport module which routes HTTP requests or portions thereof to an HTTP daemon, Pettersen describes a method for inserting dynamic content into a web page, and Wischinski describes a technical support system that provides technical support for an industrial control system over a network.

Applicants respectfully traverse the Examiner's assertion at pages 8 and 9 of the Office Action that Curtis describes a web and file transfer subsystem electrically connected to an ACM, wherein the web and file transfer subsystem "comprising a web server and a file transfer server (col. 2, lines 54-65, col. 4, lines 39-48, col. 6, lines 1-10, col. 10, lines 59-65)." Applicants submit that Curtis does not describe or suggest a file transfer system as recited in the pending claims. In contrast, at column 10, lines 59-65, Curtis describes coupling a CPU to input/output devices such as video monitors, track balls, mice, keyboards, microphones, touch-sensitive displays, transducer card readers, magnetic or paper tape readers, tablets, styluses, voice or handwriting recognizers, or other input devices. Applicants submit that connecting such devices to a CPU does not describe either of a web server or a file transfer server.

Nowhere does Curtis describe or suggest a database as recited in Claim 13. In contrast, at column 1, lines 21-36, Curtis describes how a user uses a web browser and a web server to access a web page on the Internet. Moreover, the Office has failed to establish a *prima facie* case with respect to Claim 13 in that the Office fails to identify any teaching or suggestion in Curtis that it believes corresponds to the claimed database.

Accordingly, for at least the reasons set forth above, Claim 13 is submitted to be patentable over Curtis in view of Pettersen and further in view of Wischinski.

Claims 14-27 depend, directly or indirectly, from independent Claim 13. When the recitations of Claims 14-27 are considered in combination with the recitations of Claim 13, Applicants submit that dependent Claims 14-27 likewise are patentable over Curtis in view of Pettersen and further in view of Wischinski.

Claim 28 recites a method for management and control of an automation control module (ACM) including an ACM central processing unit (CPU), wherein the ACM is one of a programmable logic controller (PLC), a computer numeric control (CNC), and a motion control product. The method includes “embedding a web and file transfer system within the ACM including electrically connecting the web and file transfer system to the ACM CPU, the web and file transfer system includes a web server, a file transfer server, and a database configured to store at least one web page file; electrically connecting the web and file transfer system to a network; and processing hypertext transfer protocol (HTTP) requests from the network using the web and file transfer system.”

None of Curtis, Pettersen, and Wischinski, considered alone or in combination, describes or suggests a method for management and control of an ACM as recited in Claim 28. More specifically, none of Curtis, Pettersen, and Wischinski, considered alone or in combination, describes or suggests embedding a web and file transfer system within the ACM, wherein the web and file transfer system includes a web server, a file transfer server, and a database configured to store at least one web page file. Rather, Curtis describes a system including a web server that includes an in-kernel cache controlled by an in-kernel data transport module which routes HTTP requests or portions thereof to an HTTP daemon, Pettersen describes a method for inserting dynamic content into a web page, and Wischinski describes a technical support system that provides technical support for an industrial control system over a network.

Nowhere does Curtis describe or suggest a database as recited in Claim 28. In contrast, at column 1, lines 21-36, Curtis describes how a user uses a web browser and a web server to access a web page on the Internet. Moreover, the Office has failed to establish a *prima facie* case with respect to Claim 28 in that the Office fails to identify any teaching or suggestion in Curtis that it believes corresponds to the claimed database.

Accordingly, for at least the reasons set forth above, Claim 28 is submitted to be patentable over Curtis in view of Pettersen and further in view of Wischinski.

Claims 33-35 depend, directly or indirectly, from independent Claim 28. When the recitations of Claims 33-35 are considered in combination with the recitations of Claim 28, Applicants submit that dependent Claims 33-35 likewise are patentable over Curtis in view of Pettersen and further in view of Wischinski.

Claim 36 recites a method for management and control of an automation control module (ACM) using an ACM system, the ACM system including an ACM, a network, and a web-enabled computer electrically connected to the ACM, wherein the ACM is one of a programmable logic controller (PLC), a computer numeric control (CNC), and a motion control product. The method includes “embedding a web and file transfer subsystem within the ACM including electrically connecting the web and file transfer subsystem to the ACM and the network, the web and file transfer subsystem includes a web server, a file transfer server, and a database; and storing at least one user-defined web page file in the database.”

None of Curtis, Pettersen, and Wischinski, considered alone or in combination, describes or suggests a method for management and control of an ACM as recited in Claim 36. More specifically, none of Curtis, Pettersen, and Wischinski, considered alone or in combination, describes or suggests embedding a web and file transfer subsystem within the ACM, the web and file transfer subsystem including a web server, a file transfer server, and a database in which at least one user-defined web page file is stored. Rather, Curtis describes a system including a web server that includes an in-kernel cache controlled by an in-kernel data transport module which routes HTTP requests or portions thereof to an HTTP daemon, Pettersen describes a method for inserting dynamic content into a web page, and Wischinski describes a technical support system that provides technical support for an industrial control system over a network.

Applicants respectfully traverse the Examiner’s assertion at page 14 of the Office Action that Curtis describes embedding a web and file transfer system within an ACM, wherein the web and file transfer system “includes a web server and a file transfer server (col. 2, lines 54-65, col. 4, lines 39-48, col. 6, lines 1-10, col. 10, lines 59-65). . . .” Applicants submit that Curtis does not describe or suggest a file transfer system as recited in the pending claims. In contrast, at column 10, lines 59-65, Curtis describes coupling a CPU to

input/output devices such as video monitors, track balls, mice, keyboards, microphones, touch-sensitive displays, transducer card readers, magnetic or paper tape readers, tablets, styluses, voice or handwriting recognizers, or other input devices. Applicants submit that connecting such devices to a CPU does not describe either a web server or a file transfer server.

Nowhere does Curtis describe or suggest a database as recited in Claim 36. In contrast, at column 1, lines 21-36, Curtis describes how a user uses a web browser and a web server to access a web page on the Internet. Moreover, the Office has failed to establish a *prima facie* case with respect to Claim 36 in that the Office fails to identify any teaching or suggestion in Curtis that it believes corresponds to the claimed database.

Accordingly, for at least the reasons set forth above, Claim 36 is submitted to be patentable over Curtis in view of Pettersen and further in view of Wischinski.

Claims 37-44 depend from independent Claim 36. When the recitations of Claims 37-44 are considered in combination with the recitations of Claim 36, Applicants submit that dependent Claims 37-44 likewise are patentable over Curtis in view of Pettersen and further in view of Wischinski.

Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. KSR Int'l Co. v. Teleflex, Inc., 127 S.Ct. 1727, 1740-1741 (2007) (quoting In re Kahn, 441 F.3d 977, 988 (Fed Cir. 2006)). In this case, the rejection includes no reasoning or rational underpinning to support the legal conclusion. The rejection is therefore in error. Applicants respectfully submit that Claims 13-27 and 33-44 are patentable over the cited prior art.

Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. It appears that the

present rejection reflects an impermissible attempt to use the instant claims as a guide or roadmap in formulating the rejection using impermissible hindsight reconstruction of the invention. The United States Supreme Court has recently expressed concern regarding distortion caused by hindsight bias in an obviousness analysis, and notes that factfinders should be cautious of arguments reliant upon ex post reasoning. See KSR Int 'l Co. v. Teleflex, Inc., slip Opinion at page 17. The Supreme Court also explained that, following “common sense,” “familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.” Id. at page 16. Applicants respectfully submit that the teachings of Curtis, Pettersen, and Wischinski do not fit together like pieces of a puzzle, but rather are two isolated disclosures that have been chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 13-27 and 33-44 be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,



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